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November 27, 2002

ILLINOIS SUPREME COURT ALLOWS EARLY APPEAL IN CLASS ACTION SUITS

The Supreme Court of Illinois announced Wednesday an amendment to its rules to allow appellate review at an early stage of class action law suits filed within the state.

The Court added language to Supreme Court Rule 307 to allow a party to seek an appeal of whether a suit was properly certified as a class action before resolution of the suit is complete at the trial court. Under the new rule, the Illinois Appellate Court would have the discretion to hear the appeal.

The amendment to Rule 307, which becomes Rule 307 (a)(8), goes into effect January 1, 2003.

A class action law suit depends on a question decided early in the proceedings: whether or not a plaintiff represents a wider group of potential plaintiffs who are similarly situated. For the suit to proceed as a class action to discovery and trial, a trial judge must certify that a representative class of plaintiffs exist.

Under existing rules, the question of whether a trial judge properly certified, or failed to certify, a class of plaintiffs is not appealable until the trial of the law suit is completed, often a long process that consumes court resources and financial and other resources of the parties. The amendment to the rule would allow what is known as an interlocutory appeal.

Chief Justice Mary Ann G. McMorrow recommended the rule change to the Court and it was unanimously approved by the seven Justices during the November term.

“The Court saw the need for an amendment to the rule to include the ability to file an interlocutory appeal from the certification order,” said Chief Justice McMorrow. “The Court agreed that this would be helpful to litigants as well as to those who practice in this area, and that such a rule is fair to all sides.”

The Supreme Court of the United States adopted a similar amendment to the Federal Rules of Civil Procedure covering class action suits filed in federal courts. The federal change was the subject of lengthy hearings and comment over several years and was approved by the Supreme Court of the United States as part of its rulemaking authority in 1998.